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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	)	APPARATUS FOR GAUGING A
	)	DIMENSION OF AN OBJECT
ROGER LEYDEN ET AL	)	
	)	
Ser. No.: 10/806,919	)	Group Art Unit: 2859
	)	
Filed: 3/23/04	)	Examiner: T. Courson

RESPONSE

Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Sir:

This is a response to the Office Action dated May 13, 2005.

Claims 1-28 are currently pending in the application.

Claims 5-9, 21 and 23 stand rejected under 35 USC §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the invention.

Applicant respectfully requests the withdrawal of this rejection, as set forth in a)-d) in paragraph 3 of the Action. Applicant will address each rejection in the order that it appears.

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37 CFR 1.8  
CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 5-26-05 (date).

  
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Terri Craine

The Examiner suggests that claims 5-7 must describe a “second layer”. Claim 1 recites a surface on the wall which reflects an image of an object located in front of the wall. Claim 5 characterizes the first layer as comprising a clear plastic material. With these claim limitations, structure is set forth providing the reflective capability. It is not a requirement that a “second layer” be specifically recited.

Claim 7 also characterizes the first layer as coated with a first material that reflects an image.

Accordingly, claims 5-7 are in full compliance with 35 USC §112.

The rejection of claims 7-9 appears to parallel the rejection of claims 5-7. There is no requirement that a “second material” be specifically recited in claims 7-9.

With respect to claim 21, the wall is characterized as having a generally flat front surface, with the first layer characterized as defining the flat front surface. The surface is defined by the layer. For example, a single layer of glass that defines a window pane has oppositely facing surfaces. In this case, the wall has a first layer that defines the “flat front surface”.

With respect to claim 23, the above arguments apply.

Withdrawal of the rejection of claims 5-9, 21 and 23 under 35 USC §112 is requested.

Claims 1-3, 15 and 18 stand rejected under 35 USC §102 as allegedly anticipated by U.S. Patent No. Des. 257,962, to Youdelman et al (Youdelman). Claims 4-6 stand rejected under 35 USC §103 as obvious over Youdelman in view of U.S. Patent No. 6,845,580 (Noble). Claims 4, 7-13 and 21-28 stand rejected under 35 USC §103 as obvious over Youdelman in view of U.S. Patent No. 1,953,796 (Crocker). Claims 14, 16,

17, 19 and 20 stand rejected under 35 USC §103 as obvious over Youdelman in view of U.S. Patent No. 2,369,988 (Steckler) in view of U.S. Patent Des. 116,049 (Noth).

Reconsideration of the rejection of claims 1-28 based on the prior art is requested.

Claim 1 requires at least one of i) a depiction of at least one of a) an animate object; b) an inanimate object; and c) a scene; ii) at least one word; iii) a design; and iv) a logo on the wall viewable from in front of the wall in conjunction with spaced graduations and a reflective image from the surface on the wall. The wall is formed so that the shape of at least a portion of the peripheral edge is at least nominally matched in shape to a shape of at least a portion of the at least one of i) a depiction of at least one of a) an animate object; b) an inanimate object; and c) a scene; ii) at least one word; iii) a design; and iv) a logo.

Youdelman lacks any teaching or suggestion of this recited structure. The Examiner has chosen the language “a depiction of an inanimate object” to be the overall outline of the reflective height measuring device shown in Youdelman. It is respectfully submitted that this rejection is not clear and, as best understood, relies upon the rectangular shape being a depiction of itself.

The word “depict” is defined in *Webster's Ninth Collegiate Dictionary* as “to represent by a picture”. There is no “picture” of any inanimate object to which a corresponding peripheral edge is at least nominally matched in shape.

Accordingly, claim 1 is believed allowable. Claims 2, 3, 15 and 18 depend from claim 1 and recite further significant structural detail to further distinguish over the prior art.

As one example, claim 18 characterizes the wall as having a nominally squared shape with four transverse edge portions, with one of the transverse edge portions having

a first length and a running length that is substantially greater than the first length. A corresponding “first length” of any edge in Youdelman is equal to the “running length” as recited in claim 18. Each edge is straight so that the actual length and running length are the same.

The Examiner relies on Noble in combination with Youdelman in rejecting claims 4-6.

Nobel is not concerned with reflecting an image of an object as is claim 1, from which claims 4-6 depend. Thus, the combination, aside from being unobvious, would not suggest applicant’s claimed structure, in the absence of hindsight and without a substantial reconstruction of the structure in these references.

In rejecting claims 4, 7-13, and 21-28, the Examiner relies on Crocker in combination with Youdelman.

The pertinence of Crocker as suggested by the Examiner is not fully understood. Initially, the Examiner states that Fig. 4 of Crocker shows a first layer having “at least one of i) a depiction of at least one of a) an animate object b) an inanimate object; and c) a scene; ii) at least one word iii) a design and iv) a logo”. The Examiner further states that “a depiction of an inanimate object” is interpreted such that the “inanimate object [is] another layer”. Given that “depiction” should be interpreted as defined above by Webster, Crocker lacks any teaching or suggestion of a corresponding depiction of any inanimate object. Consequently, in combination with Youdelman, this entire limitation relative to the “depiction” is absent from the combined teachings.

Further, Crocker is directed to a metal mirror. It is not clear from the disclosure that any layer is such that it can be “viewed through”, let alone viewed through to afford the

reflective properties and coordinated viewing of the user and depiction in conjunction with the graduations.

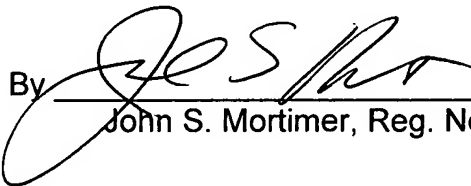
Accordingly, it is respectfully submitted that none of the claims rejected based upon Youdelman and Crocker is obvious from the combined teachings therein.

The Examiner relies on Steckler and Noth in view of Youdelman in rejecting claims 14, 16, 17, 19 and 20.

It is respectfully submitted that Steckler and Noth, in combination with Youdelman, do not teach or suggest the subject matter of claim 1, from which these claims depend, let alone the more specific structure recited in these claims.

Reconsideration of the rejection of claims 1-28 and allowance of the case are requested.

Respectfully submitted,

By   
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Date: May 25, 2005